

BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation  
Against:

ELIJAH MOBLEY, M.D.

Physician's and Surgeon's  
Certificate No. G81875

Respondent

Case No. 800-2016-028541

DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on April 19, 2019.

IT IS SO ORDERED: March 20, 2019.

MEDICAL BOARD OF CALIFORNIA



Kristina Lawson, JD, Chair  
Panel B

1 XAVIER BECERRA  
Attorney General of California  
2 JUDITH T. ALVARADO  
Supervising Deputy Attorney General  
3 REBECCA L. SMITH  
Deputy Attorney General  
4 State Bar No. 179733  
California Department of Justice  
5 300 South Spring Street, Suite 1702  
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7 *Attorneys for Complainant*

8  
9 **BEFORE THE**  
**MEDICAL BOARD OF CALIFORNIA**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12  
13 In the Matter of the Accusation Against:

14 ELIJAH MOBLEY, M.D.  
16155 Sierra Lakes Parkway #160436  
15 Fontana, California 92336

16 Physician's and Surgeon's Certificate  
No. G 81875,

17 Respondent.  
18

Case No. 800-2016-028541

OAH No. 2018040652

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
20 entitled proceedings that the following matters are true:

21 **PARTIES**

22 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board  
23 of California (Board). She brought this action solely in her official capacity and is represented in  
24 this matter by Xavier Becerra, Attorney General of the State of California, by Rebecca L. Smith,  
25 Deputy Attorney General.

26 2. Respondent Elijah Mobley, M.D. (Respondent) is represented in this proceeding by  
27 attorney Peter R. Osinoff, whose address is 355 South Grand Avenue, Suite 1750, Los Angeles,  
28 California 90071.

3. On August 16, 1995, the Board issued Physician's and Surgeon's Certificate No. G 81875 to Elijah Mobley, M.D. (Respondent). That license was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2016-028541, and will expire on August 31, 2019, unless renewed.

## JURISDICTION

4. Accusation No. 800-2016-028541 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on March 21, 2018. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2016-028541 is attached as Exhibit A and incorporated herein by reference.

## ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2016-028541. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

## CULPABILITY

9. Respondent admits the truth of each and every charge and allegation in the Third Cause for Discipline and Fourth Cause for Discipline in Accusation No. 800-2016-028541.

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10. Respondent agrees that his Physician's and Surgeon's Certificate is subject to discipline and he agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

#### **CONTINGENCY**

11. This stipulation shall be subject to approval by the Medical Board of California. Respondent understands and agrees that counsel for Complainant and the staff of the Medical Board of California may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

12. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

13. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

#### **DISCIPLINARY ORDER**

**IT IS HEREBY ORDERED** that Physician's and Surgeon's Certificate No. G 81875 issued to Respondent Elijah Mobley, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years to run consecutively from the conclusion of Respondent's probation term in the Board's Decision in Case No. 18-2013-231149, for a total of six (6) years probation, with the following terms and conditions:

1. **PERFORMANCE OF GALLBLADDER SURGERIES.** Respondent must have an assistant surgeon with full hospital privileges to do surgeries be present for all gallbladder

1 surgeries performed by Respondent for two (2) years from the effective date of this Decision.

2 2. CLINICAL TRAINING PROGRAM – condition satisfied. Within 60 calendar days  
3 of the effective date of this Decision, Respondent shall enroll in a clinical training or educational  
4 program equivalent to the Physician Assessment and Clinical Education Program (PACE) offered  
5 at the University of California - San Diego School of Medicine (“Program”). Respondent shall  
6 successfully complete the Program not later than six (6) months after Respondent’s initial  
7 enrollment unless the Board or its designee agrees in writing to an extension of that time.

8 The Program shall consist of a Comprehensive Assessment program comprised of a two-  
9 day assessment of Respondent’s physical and mental health; basic clinical and communication  
10 skills common to all clinicians; and medical knowledge, skill and judgment pertaining to  
11 Respondent’s area of practice in which Respondent was alleged to be deficient, and at minimum,  
12 a 40 hour program of clinical education in the area of practice in which Respondent was alleged  
13 to be deficient and which takes into account data obtained from the assessment, Decision(s),  
14 Accusation(s), and any other information that the Board or its designee deems relevant.  
15 Respondent shall pay all expenses associated with the clinical training program.

16 Based on Respondent’s performance and test results in the assessment and clinical  
17 education, the Program will advise the Board or its designee of its recommendation(s) for the  
18 scope and length of any additional educational or clinical training, treatment for any medical  
19 condition, treatment for any psychological condition, or anything else affecting Respondent’s  
20 practice of medicine. Respondent shall comply with Program recommendations.

21 At the completion of any additional educational or clinical training, Respondent shall  
22 submit to and pass an examination. Determination as to whether Respondent successfully  
23 completed the examination or successfully completed the program is solely within the program’s  
24 jurisdiction.

25 If Respondent fails to enroll, participate in, or successfully complete the clinical training  
26 program within the designated time period, Respondent shall receive a notification from the  
27 Board or its designee to cease the practice of medicine within three (3) calendar days after being  
28 so notified. Respondent shall not resume the practice of medicine until enrollment or

1 participation in the outstanding portions of the clinical training program have been completed. If  
2 Respondent did not successfully complete the clinical training program, Respondent shall not  
3 resume the practice of medicine until a final decision has been rendered on the accusation and/or  
4 a petition to revoke probation. The cessation of practice shall not apply to the reduction of the  
5 probationary time period.

6 Within 60 days after Respondent has successfully completed the clinical training program,  
7 Respondent shall participate in a professional enhancement program equivalent to the one offered  
8 by the Physician Assessment and Clinical Education Program at the University of California, San  
9 Diego School of Medicine, which shall include quarterly chart review, semi-annual practice  
10 assessment, and semi-annual review of professional growth and education. Respondent shall  
11 participate in the professional enhancement program at Respondent's expense during the term of  
12 probation, or until the Board or its designee determines that further participation is no longer  
13 necessary.

14 3. MONITORING - PRACTICE. Within 30 calendar days of the effective date of this  
15 Decision, Respondent shall submit to the Board or its designee for prior approval as a practice  
16 monitor, the name and qualifications of one or more licensed physicians and surgeons whose  
17 licenses are valid and in good standing, and who are preferably American Board of Medical  
18 Specialties (ABMS) certified. A monitor shall have no prior or current business or personal  
19 relationship with Respondent, or other relationship that could reasonably be expected to  
20 compromise the ability of the monitor to render fair and unbiased reports to the Board, including  
21 but not limited to any form of bartering, shall be in Respondent's field of practice, and must agree  
22 to serve as Respondent's monitor. Respondent shall pay all monitoring costs.

23 The Board or its designee shall provide the approved monitor with copies of the Decision(s)  
24 and Accusation(s), and a proposed monitoring plan. Within 15 calendar days of receipt of the  
25 Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit a signed  
26 statement that the monitor has read the Decision(s) and Accusation(s), fully understands the role  
27 of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees  
28 with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the

1 signed statement for approval by the Board or its designee.

2 Within 60 calendar days of the effective date of this Decision, and continuing throughout  
3 probation, Respondent's practice shall be monitored by the approved monitor. Respondent shall  
4 make all records available for immediate inspection and copying on the premises by the monitor  
5 at all times during business hours and shall retain the records for the entire term of probation.

6 If Respondent fails to obtain approval of a monitor within 60 calendar days of the effective  
7 date of this Decision, Respondent shall receive a notification from the Board or its designee to  
8 cease the practice of medicine within three (3) calendar days after being so notified. Respondent  
9 shall cease the practice of medicine until a monitor is approved to provide monitoring  
10 responsibility.

11 The monitor shall submit a quarterly written report to the Board or its designee which  
12 includes an evaluation of Respondent's performance, indicating whether Respondent's practices  
13 are within the standards of practice of medicine, and whether Respondent is practicing medicine  
14 safely, billing appropriately or both. It shall be the sole responsibility of Respondent to ensure  
15 that the monitor submits the quarterly written reports to the Board or its designee within 10  
16 calendar days after the end of the preceding quarter.

17 If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of  
18 such resignation or unavailability, submit to the Board or its designee, for prior approval, the  
19 name and qualifications of a replacement monitor who will be assuming that responsibility within  
20 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60  
21 calendar days of the resignation or unavailability of the monitor, Respondent shall receive a  
22 notification from the Board or its designee to cease the practice of medicine within three (3)  
23 calendar days after being so notified Respondent shall cease the practice of medicine until a  
24 replacement monitor is approved and assumes monitoring responsibility.

25 In lieu of a monitor, Respondent may participate in a professional enhancement program  
26 equivalent to the one offered by the Physician Assessment and Clinical Education Program at the  
27 University of California, San Diego School of Medicine, that includes, at minimum, quarterly  
28 chart review, semi-annual practice assessment, and semi-annual review of professional growth

1 and education. Respondent shall participate in the professional enhancement program at  
2 Respondent's expense during the term of probation.

3 4. EDUCATION COURSE. Within 60 calendar days of the effective date of this  
4 Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee  
5 for its prior approval educational program(s) or course(s) which shall not be less than 40 hours  
6 per year, for each year of probation. The educational program(s) or course(s) shall be aimed at  
7 correcting any areas of deficient practice or knowledge and shall be Category I certified. The  
8 educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to  
9 the Continuing Medical Education (CME) requirements for renewal of licensure. Following the  
10 completion of each course, the Board or its designee may administer an examination to test  
11 Respondent's knowledge of the course. Respondent shall provide proof of attendance for 65  
12 hours of CME of which 40 hours were in satisfaction of this condition.

13 5. MEDICAL RECORD KEEPING COURSE. Within 60 calendar days of the effective  
14 date of this Decision, Respondent shall enroll in a course in medical record keeping approved in  
15 advance by the Board or its designee. Respondent shall provide the approved course provider  
16 with any information and documents that the approved course provider may deem pertinent.  
17 Respondent shall participate in and successfully complete the classroom component of the course  
18 not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully  
19 complete any other component of the course within one (1) year of enrollment. The medical  
20 record keeping course shall be at Respondent's expense and shall be in addition to the Continuing  
21 Medical Education (CME) requirements for renewal of licensure.

22 A medical record keeping course taken after the acts that gave rise to the charges in the  
23 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board  
24 or its designee, be accepted towards the fulfillment of this condition if the course would have  
25 been approved by the Board or its designee had the course been taken after the effective date of  
26 this Decision.

27 Respondent shall submit a certification of successful completion to the Board or its  
28 designee not later than 15 calendar days after successfully completing the course, or not later than



1 15 calendar days after the effective date of the Decision, whichever is later.

2 6. NOTIFICATION. Within seven (7) days of the effective date of this Decision,  
3 Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the  
4 Chief Executive Officer at every hospital where privileges or membership are extended to  
5 Respondent, at any other facility where Respondent engages in the practice of medicine,  
6 including all physician and locum tenens registries or other similar agencies, and to the Chief  
7 Executive Officer at every insurance carrier which extends malpractice insurance coverage to  
8 Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15  
9 calendar days.

10 This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

11 7. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE  
12 NURSES. During probation, Respondent is prohibited from supervising physician assistants and  
13 advanced practice nurses.

14 8. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, all rules  
15 governing the practice of medicine in California and remain in full compliance with any court  
16 ordered criminal probation, payments, and other orders.

17 9. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations  
18 under penalty of perjury on forms provided by the Board, stating whether there has been  
19 compliance with all the conditions of probation.

20 Respondent shall submit quarterly declarations not later than 10 calendar days after the end  
21 of the preceding quarter.

22 10. GENERAL PROBATION REQUIREMENTS.

23 Compliance with Probation Unit

24 Respondent shall comply with the Board's probation unit.

25 Address Changes

26 Respondent shall, at all times, keep the Board informed of Respondent's business and  
27 residence addresses, email address (if available), and telephone number. Changes of such  
28 addresses shall be immediately communicated in writing to the Board or its designee. Under no

1 circumstances shall a post office box serve as an address of record, except as allowed by Business  
2 and Professions Code section 2021(b).

3 Place of Practice

4 Respondent shall not engage in the practice of medicine in Respondent's or patient's place  
5 of residence, unless the patient resides in a skilled nursing facility or other similar licensed  
6 facility.

7 License Renewal

8 Respondent shall maintain a current and renewed California physician's and surgeon's  
9 license.

10 Travel or Residence Outside California

11 Respondent shall immediately inform the Board or its designee, in writing, of travel to any  
12 areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty  
13 (30) calendar days.

14 In the event Respondent should leave the State of California to reside or to practice,  
15 Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of  
16 departure and return.

17 11. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be  
18 available in person upon request for interviews either at Respondent's place of business or at the  
19 probation unit office, with or without prior notice throughout the term of probation.

20 12. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or  
21 its designee in writing within 15 calendar days of any periods of non-practice lasting more than  
22 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is  
23 defined as any period of time Respondent is not practicing medicine as defined in Business and  
24 Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct  
25 patient care, clinical activity or teaching, or other activity as approved by the Board. If  
26 Respondent resides in California and is considered to be in non-practice, Respondent shall  
27 comply with all terms and conditions of probation. All time spent in an intensive training  
28 program which has been approved by the Board or its designee shall not be considered non-

1 practice and does not relieve Respondent from complying with all the terms and conditions of  
2 probation. Practicing medicine in another state of the United States or Federal jurisdiction while  
3 on probation with the medical licensing authority of that state or jurisdiction shall not be  
4 considered non-practice. A Board-ordered suspension of practice shall not be considered as a  
5 period of non-practice.

6 In the event Respondent's period of non-practice while on probation exceeds 18 calendar  
7 months, Respondent shall successfully complete the Federation of State Medical Boards' Special  
8 Purpose Examination, or, at the Board's discretion, a clinical competence assessment program  
9 that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model  
10 Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

11 Respondent's period of non-practice while on probation shall not exceed two (2) years.

12 Periods of non-practice will not apply to the reduction of the probationary term.

13 Periods of non-practice for a Respondent residing outside of California will relieve  
14 Respondent of the responsibility to comply with the probationary terms and conditions with the  
15 exception of this condition and the following terms and conditions of probation: Obey All Laws;  
16 General Probation Requirements; Quarterly Declarations; Abstain from the Use of Alcohol and/or  
17 Controlled Substances; and Biological Fluid Testing.

18 13. COMPLETION OF PROBATION. Respondent shall comply with all financial  
19 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the  
20 completion of probation. Upon successful completion of probation, Respondent's certificate shall  
21 be fully restored.

22 14. VIOLATION OF PROBATION. Failure to fully comply with any term or condition  
23 of probation is a violation of probation. If Respondent violates probation in any respect, the  
24 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and  
25 carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke  
26 Probation, or an Interim Suspension Order is filed against Respondent during probation, the  
27 Board shall have continuing jurisdiction until the matter is final, and the period of probation shall  
28 be extended until the matter is final.

1 15. LICENSE SURRENDER. Following the effective date of this Decision, if  
2 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy  
3 the terms and conditions of probation, Respondent may request to surrender his or her license.  
4 The Board reserves the right to evaluate Respondent's request and to exercise its discretion in  
5 determining whether or not to grant the request, or to take any other action deemed appropriate  
6 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent  
7 shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its  
8 designee and Respondent shall no longer practice medicine. Respondent will no longer be subject  
9 to the terms and conditions of probation. If Respondent re-applies for a medical license, the  
10 application shall be treated as a petition for reinstatement of a revoked certificate.

11 16. PROBATION MONITORING COSTS. Respondent shall pay the costs associated  
12 with probation monitoring each and every year of probation, as designated by the Board, which  
13 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of  
14 California and delivered to the Board or its designee no later than January 31 of each calendar  
15 year.

16 17. PETITION FOR EARLY TERMINATION OF PROBATION. Respondent shall not  
17 petition for early termination of probation for at least two (2) years from the effective date of this  
18 Decision.

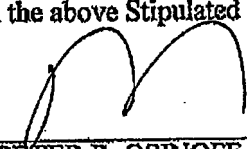
19 ACCEPTANCE

20 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully  
21 discussed it with my attorney, Peter R. Osinoff. I understand the stipulation and the effect it will  
22 have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and  
23 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the  
24 Decision and Order of the Medical Board of California.

25  
26 DATED: 3/11/19

27 E. Mobley  
28 ELIJAH MOBLEY, M.D.  
Respondent

1 I have read and fully discussed with Respondent Elijah Mobley, M.D. the terms and  
 2 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.  
 3 I approve its form and content.

4 DATED: 3/11/19  
 5   
 PETER R. OSINOFF  
 Attorney for Respondent

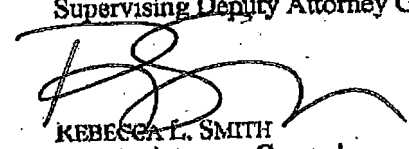
7 ENDORSEMENT

8 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully  
 9 submitted for consideration by the Medical Board of California.

11 Dated: 3/18/19

Respectfully submitted.

XAVIER BECERRA  
 Attorney General of California  
 JUDITH T. ALVARADO  
 Supervising Deputy Attorney General

  
 REBECCA L. SMITH  
 Deputy Attorney General  
 Attorneys for Complainant

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 21 53104909.docx

**Exhibit A**

**Accusation No. 800-2016-028541**

1 XAVIER BECERRA  
Attorney General of California  
2 ROBERT MCKIM BELL  
Supervising Deputy Attorney General  
3 REBECCA L. SMITH  
Deputy Attorney General  
4 State Bar No. 179733  
California Department of Justice  
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Los Angeles, California 90013  
6 Telephone: (213) 269-6475  
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7 *Attorneys for Complainant*

FILED  
STATE OF CALIFORNIA  
MEDICAL BOARD OF CALIFORNIA  
SACRAMENTO MARCH 21, 2018  
BY: [Signature] ANALYST

8 **BEFORE THE**  
9 **MEDICAL BOARD OF CALIFORNIA**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 800-2016-028541

12 ELIJAH MOBLEY, M.D.  
16155 Sierra Lakes Parkway #160436  
13 Fontana, California 92336

**ACCUSATION**

14 Physician's and Surgeon's Certificate  
15 No. G 81875,

16 Respondent.

17  
18 Complainant alleges:

19 **PARTIES**

20 1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official  
21 capacity as the Executive Director of the Medical Board of California, Department of Consumer  
22 Affairs (Board).

23 2. On or about August 16, 1995, the Medical Board issued Physician's and Surgeon's  
24 Certificate Number G 81875 to Elijah Mobley, M.D. (Respondent). That license was in full force  
25 and effect at all times relevant to the charges brought herein and will expire on August 31, 2019,  
26 unless renewed.

27 ///

28 ///

**JURISDICTION**

3. This Accusation is brought before the Board under the authority of the following provisions of the California Business and Professions Code (Code) unless otherwise indicated.

4. Section 2004 of the Code states:

"The board shall have the responsibility for the following:

"(a) The enforcement of the disciplinary and criminal provisions of the Medical Practice Act.

"(b) The administration and hearing of disciplinary actions.

"(c) Carrying out disciplinary actions appropriate to findings made by a panel or an administrative law judge.

"(d) Suspending, revoking, or otherwise limiting certificates after the conclusion of disciplinary actions.

"(e) Reviewing the quality of medical practice carried out by physician and surgeon certificate holders under the jurisdiction of the board.

"..."

5. Section 2227 of the Code states:

"(a) A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary action with the board, may, in accordance with the provisions of this chapter:

"(1) Have his or her license revoked upon order of the board.

"(2) Have his or her right to practice suspended for a period not to exceed one year upon order of the board.

"(3) Be placed on probation and be required to pay the costs of probation monitoring upon order of the board.

"(4) Be publicly reprimanded by the board. The public reprimand may include a requirement that the licensee complete relevant educational courses approved by the board.

///



1       “(5) Have any other action taken in relation to discipline as part of an order of probation, as  
2 the board or an administrative law judge may deem proper.

3       “(b) Any matter heard pursuant to subdivision (a), except for warning letters, medical  
4 review or advisory conferences, professional competency examinations, continuing education  
5 activities, and cost reimbursement associated therewith that are agreed to with the board and  
6 successfully completed by the licensee, or other matters made confidential or privileged by  
7 existing law, is deemed public, and shall be made available to the public by the board pursuant to  
8 Section 803.1.”

9       6.     Section 2234 of the Code, states:

10       “The board shall take action against any licensee who is charged with unprofessional  
11 conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not  
12 limited to, the following:

13       “(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the  
14 violation of, or conspiring to violate any provision of this chapter.

15       “(b) Gross negligence.

16       “(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or  
17 omissions. An initial negligent act or omission followed by a separate and distinct departure from  
18 the applicable standard of care shall constitute repeated negligent acts.

19       “(1) An initial negligent diagnosis followed by an act or omission medically appropriate  
20 for that negligent diagnosis of the patient shall constitute a single negligent act.

21       “(2) When the standard of care requires a change in the diagnosis, act, or omission that  
22 constitutes the negligent act described in paragraph (1), including, but not limited to, a  
23 reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the  
24 applicable standard of care, each departure constitutes a separate and distinct breach of the  
25 standard of care.

26       “...”

27       ///

28       ///

7. Section 2266 of the Code states:

“The failure of a physician and surgeon to maintain adequate and accurate records relating to the provision of services to their patients constitutes unprofessional conduct.”

## FACTUAL SUMMARY

Patient 1:

8. Patient 1, a then 30-year-old female patient, presented to the emergency department at Victor Valley Community Hospital on July 7, 2013 with a complaint of abdominal pain radiating to her back.<sup>1</sup> An ultrasound revealed gallstones and mild dilatation of her common bile duct. Patient 1 was then seen by Respondent, a general surgeon, who admitted her to the hospital with a diagnosis of cholecystitis.<sup>2</sup> Respondent's plan was to hydrate the patient with intravenous (IV) fluids and IV antibiotics. He noted that the patient would possibly need a cholecystectomy during the hospitalization.

9. On July 9, 2013, Respondent noted no interval change in the patient's status and requested medical clearance for surgery from Dr. R.K. That same day, Dr. R.K. examined the patient and reported that she was medically cleared for surgical intervention.

10. On July 9, 2013, Respondent also gave a physician order ordering consent for laparoscopic cholecystectomy with possible open cholecystectomy. On July 10, 2013 at 2230 hours, the patient executed a pre-printed hospital consent for surgery by Respondent and Respondent signed the hospital consent on July 11, 2013 at 1045 hours.

11. On July 11, 2013, Respondent performed a laparoscopic cholecystectomy that was converted to an exploratory laparotomy with common bile duct repair.

12. Respondent's Operative Report for the July 11, 2013 procedure reflects that the surgery commenced laparoscopically without complication until the end of the surgery at which time some bile was noted to be leaking from the dissection area. The patient's right upper

<sup>1</sup> For privacy purposes, the patients in this Accusation are referred to as Patient 1 and Patient 2, with identities of each patient disclosed to Respondent in discovery.

<sup>2</sup> Cholecystitis is inflammation of the gallbladder.

1 quadrant was then explored. Respondent noted there was an injury to the bile duct at the  
2 confluence of the right and left hepatic ducts. He further noted that attempts were made to probe  
3 the ducts unsuccessfully. Cholangiogram performed through the ductal injury and the cystic duct  
4 failed to demonstrate continuity of the biliary tree.<sup>3</sup> The bile duct injury was then primarily  
5 closed and a Jackson-Pratt drain (JP drain) was placed.<sup>4</sup> Respondent noted that the patient's  
6 abdomen was closed and the patient was taken to the recovery room in stable condition.

7 13. Postoperatively, the patient was placed on IV antibiotics and total parenteral nutrition  
8 (TPN) by nasogastric tube, as she was ordered to take nothing by mouth following surgery.  
9 Serial laboratory studies revealed a normal bilirubin. She had some bilious discharge from her JP  
10 drain by post operative day number four. She was taken off TPN on July 15, 2013 and started on  
11 a clear liquid diet. She still continued to have bilious drainage from her JP drain. Her pain was  
12 noted to be well controlled. On July 16, 2013, the patient was discharged home with oral pain  
13 medications and antibiotics as well as instructions to follow up in Respondent's office within a  
14 week. There is no documentation of any follow up.

15 14. In October 2013, the patient presented to Harbor UCLA Hospital with nausea,  
16 vomiting and jaundice. She was diagnosed with acute pancreatitis. She underwent an endoscopic  
17 retrograde cholangiopancreatography (ERCP) which revealed strictures in her bile duct.<sup>5</sup> On  
18 October 18, 2013, she underwent percutaneous transhepatic biliary drainage (PTBD) to  
19 decompress her liver.<sup>6</sup> On January 2, 2014, she ultimately underwent a roux-en-Y  
20 hepaticojejunostomy on January 2, 2014 at which time it was noted that she had a clipped

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22 <sup>3</sup> A cholangiogram is a special x-ray procedure that is done with contrast media to visualize and  
23 examine the bile ducts after the a cholecystectomy.

24 <sup>4</sup> A Jackson-Pratt Drain is a closed-suction medical device that is commonly used as a post-  
operative drain for collecting bodily fluids from surgical sites.

25 <sup>5</sup> Endoscopic retrograde cholangiopancreatography (ERCP) is a procedure that uses endoscopy  
26 and fluoroscopy to visualize and examine the bile ducts, pancreatic duct and gallbladder.

27 <sup>6</sup> Percutaneous transhepatic biliary drainage (PTBD) is a procedure where a small, flexible, plastic  
28 tube is placed through the skin into the liver in order to drain an obstructed bile duct system.

1 common bile duct and liver abscesses.<sup>7</sup> She remained hospitalized at Harbor UCLA Hospital  
2 until January 12, 2014 at which time she was continued to be followed in the outpatient clinic.

3 Patient 2:

4 15. Patient 2, a then 27-year-old female, presented to Glendora Urgent Care Center on  
5 February 20, 2015 with complaints of abdominal pain, constipation and vomiting after eating for  
6 several days. Following an examination, she was diagnosed with dyspepsia, treated with pain and  
7 anti-nausea medications. She was discharged home with instructions to follow-up with her  
8 primary care physician.

9 16. On February 21, 2015, the patient presented to the emergency department at Foothill  
10 Presbyterian Hospital with left upper quadrant and epigastric abdominal pain. She had an  
11 elevated white blood cell count, an abdominal ultrasound showed gallstones and an abdominal  
12 CT scan showed a thickened gallbladder. She was admitted to the medical service with a  
13 diagnosis of biliary colic. On February 22, 2012, she underwent a HIDA scan which showed  
14 non-visualization of the gallbladder, consistent with cholecystitis. A surgical consult with  
15 Respondent was obtained.

16 17. On February 24, 2015, Respondent gave a physician order ordering consent for  
17 possible open cholecystectomy and any indicated procedure. That same day, the patient executed  
18 a pre-printed hospital consent for a laparoscopic possible open cholecystectomy by Respondent  
19 also signed by Respondent.

20 18. Also on February 24, 2015, Respondent performed a laparoscopic cholecystectomy.  
21 In his Operative Report, Respondent noted that the surgery proceeded without complication.

22 19. On February 26, 2015, the patient experienced significant abdominal pain after  
23 eating. She had an elevated serum bilirubin level and an HIDA scan demonstrated non-  
24 visualization of the common bile duct, which was consistent with a complete common bile duct  
25 obstruction. An MRCP was consistent with a bile duct injury.

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28 <sup>7</sup> Roux-en-Y hepaticojejunostomy is a surgical procedure involving anastomosis to either the  
common bile duct or the confluence of the hepatic ducts to treat a bile duct injury.

20. Also that same day, Respondent noted his concern for a bile duct injury and recommended that the patient be transferred to a "higher level of care" or have a transhepatic biliary drainage performed. A second surgical opinion by Dr. O.S. was obtained that day.

21. On February 27, 2015, a transhepatic biliary drain was placed by radiologist, Dr. M.M. Thereafter, attempts were made to transfer the patient to a tertiary care center and the patient was ultimately transferred to UC Irvine Medical Center on March 2, 2015.

22. On March 4, 2015, Dr. D.I., a hepatobiliary specialist at UC Irvine Medical Center, performed a roux-en-Y hepaticojejunostomy with placement of an external biliary drain. The patient was discharged home on March 12, 2015 and thereafter continued to be followed in the outpatient clinic where her external biliary drain was eventually removed.

## STANDARD OF CARE

23. The standard of medical practice in California requires that a physician obtain a patient's informed consent prior to performing surgery. The physician must discuss the risks and benefits of surgery as well as possible alternatives to surgery with the patient and document this informed consent discussion in the patient's medical record. When consenting a patient for a laparoscopic cholecystectomy, the physician must include a discussion of the possibilities of conversion to an open surgery, bile duct injury, and further surgeries.

24. When a physician performing a laparoscopic cholecystectomy identifies a bile duct injury intraoperatively, the standard of medical practice in California requires that the physician perform the repair or consult with a hepatobiliary reconstruction specialist to perform the repair. If a hepatobiliary reconstruction specialist is necessary to perform the repair and not available to perform the repair at the hospital where the surgery is being performed, it is appropriate to provide drainage of the biliary tree and transfer the patient to a tertiary care center for repair.

25. When there is a bile duct injury during a cholecystectomy, the standard of medical practice in California requires that adequate biliary drainage be demonstrated and maintained post operatively by ordering appropriate diagnostic testing, including but not limited to a hepatobiliary

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1 scan (HIDA scan),<sup>8</sup> magnetic resonance cholangiopancreatography (MRCP),<sup>9</sup> ERCP, or  
2 percutaneous transhepatic cholangiogram and biliary drainage (PTC).<sup>10</sup>

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(Gross Negligence in the Intraoperative Care of Patient 1)**

5 26. Respondent is subject to disciplinary action under section 2234, subdivision (b), of  
6 the Code, in that he engaged in gross negligence in the intraoperative care of Patient 1.  
7 Complainant refers to and, by this reference, incorporates herein, paragraphs 8 through 14 and 24,  
8 above, as though fully set forth herein. The circumstances are as follows:

9 27. Respondent identified a bile duct injury during Patient 1's laparoscopic  
10 cholecystectomy. He converted to a laparotomy and identified the injury to be at the confluence  
11 of the right and left hepatic ducts. He made the intraoperative decision to handle the repair  
12 himself. He performed a repair of a proximate bile duct injury and ended the operation without  
13 re-establishing continuity of the biliary tree or arranging for external drainage of the biliary  
14 system.

15 28. Respondent's acts and/or omissions as set forth in paragraphs 8 through 14 and 24,  
16 above, whether proven individually, jointly, or in any combination thereof, constitute gross  
17 negligence pursuant to section 2234, subdivision (b), of the Code. Therefore cause for discipline  
18 exists.

19 **SECOND CAUSE FOR DISCIPLINE**

20 **(Gross Negligence in the Postoperative Care of Patient 1)**

21 29. Respondent is subject to disciplinary action under section 2234, subdivision (b), of  
22 the Code, in that he engaged in gross negligence in the postoperative care of Patient 1.

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24 <sup>8</sup> A hepatobiliary scan (HIDA scan) is an imaging test used to examine the gallbladder and the  
25 ducts leading into and out of the gallbladder.

26 <sup>9</sup> A magnetic resonance cholangiopancreatography (MRCP) is an imaging used to visualize the  
27 biliary and pancreatic ducts.

28 <sup>10</sup> Percutaneous transhepatic cholangiography (PTC) involves transhepatic insertion of a needle  
into a bile duct, followed by injection of contrast material to opacify the bile ducts. PTC permits a number  
of therapeutic interventions, including drainage of infected bile in the setting of cholangitis.

1 Complainant refers to and, by this reference, incorporates herein, paragraphs 8 through 14 and 24  
2 through 25, above, as though fully set forth herein. The circumstances are as follows:

3 30. Respondent failed to document that he re-established biliary continuity  
4 intraoperatively during his primary repair of Patient 1's bile duct. Post operatively, no tests were  
5 ordered to properly demonstrate that Patient 1's biliary tree was in continuity. Patient 1 was  
6 discharged home on postoperative day five without any documentation of biliary continuity, plan  
7 for ongoing surveillance, nor any plan to refer her to a tertiary care center for further workup and  
8 management.

9 31. Respondent's acts and/or omissions as set forth in paragraphs 8 through 14 and 24  
10 through 25, above, whether proven individually, jointly, or in any combination thereof, constitute  
11 gross negligence pursuant to section 2234, subdivision (b), of the Code. Therefore cause for  
12 discipline exists.

### 13 THIRD CAUSE FOR DISCIPLINE

#### 14 (Repeated Acts of Negligence as to Patients 1 and 2)

15 32. Respondent is subject to disciplinary action under section 2234, subdivision (c), of  
16 the Code, in that he engaged in repeated acts of negligence in his care and treatment of Patients 1  
17 and 2. Complainant refers to and, by this reference, incorporates herein, paragraphs 8 through 31,  
18 above, as though fully set forth herein. The circumstances are as follows:

19 33. Respondent failed to document that informed consent was obtained from Patient 1  
20 and that he discussed the possibilities of conversion to open surgery, bile duct injury, and further  
21 surgeries.

22 34. Respondent identified a bile duct injury during Patient 1's laparoscopic  
23 cholecystectomy. He converted to a laparotomy and identified the injury to be at the confluence  
24 of the right and left hepatic ducts. He made the intraoperative decision to handle the repair  
25 himself. He performed a repair of a proximate bile duct injury and ended the operation without  
26 re-establishing continuity of the biliary tree or arranging for external drainage of the biliary  
27 system.

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35. Respondent failed to document that he re-established biliary continuity intraoperatively during his primary repair of Patient 1's bile duct. Post operatively, no tests were ordered to properly demonstrate that Patient 1's biliary tree was in continuity. Patient 1 was discharged home on postoperative day five without any documentation of biliary continuity, plan for ongoing surveillance, nor any plan to refer her to a tertiary care center for further workup and management..

36. Respondent failed to document that informed consent was obtained from Patient 2 and that he discussed the possibilities of conversion to open surgery, bile duct injury, and further surgeries.

37. Respondent's acts and/or omissions as set forth in paragraphs 8 through 31, above, whether proven individually, jointly, or in any combination thereof, constitute repeated acts of negligence pursuant to section 2234, subdivision (c), of the Code. Therefore cause for discipline exists.

#### FOURTH CAUSE FOR DISCIPLINE

**(Failure to Maintain Adequate and Accurate Records as to Patients 1 and 2)**

38. Respondent is subject to disciplinary action under section 2266 of the Code for failing to maintain adequate and accurate records relating to his care and treatment of Patients 1 and 2. Complainant refers to and, by this reference, incorporates herein, paragraphs 8 through 37, above, as though fully set forth herein.

39. Respondent's acts and/or omissions as set forth in paragraphs 8 through 37, above, whether proven individually, jointly, or in any combination thereof, constitute the failure to maintain adequate records pursuant to section 2266 of the Code. Therefore cause for discipline exists.

## DISCIPLINARY CONSIDERATIONS

40. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant alleges that on February 24, 2017, in a prior disciplinary action entitled *In the Matter of the Accusation Against Elijah Mobley, M.D.* before the Medical Board of California, in Case Number 18-2013-231149, Respondent's license was revoked for gross negligence and



1 repeated negligent acts in the care and treatment of one patient. However, the revocation of  
2 Respondent's license was stayed and Respondent was placed on three years of probation with the  
3 requirement to complete a Clinical Training Program, maintain a practice monitor and other  
4 standard terms and conditions. That decision is now final and is incorporated by reference as if  
5 fully set forth herein.

6 **PRAYER**

7 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
8 and that following the hearing, the Medical Board of California issue a decision:

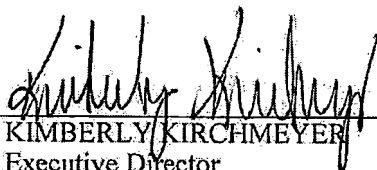
9 1. Revoking or suspending Physician's and Surgeon's Certificate Number G 81875,  
10 issued to Elijah Mobley, M.D.;

11 2. Revoking, suspending or denying approval of his authority to supervise physician  
12 assistants, pursuant to section 3527 of the Code, and advanced practice nurses;

13 3. If placed on probation, ordering him to pay the Board the costs of probation  
14 monitoring; and

15 4. Taking such other and further action as deemed necessary and proper.

16  
17 DATED: March 21, 2018

  
KIMBERLY KIRCHMEYER  
Executive Director  
Medical Board of California  
Department of Consumer Affairs  
State of California  
Complainant

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